

PCB JUAS 11-11

ORIGINAL

2011

1                                   A bill to be entitled  
 2           An act relating to commitment; prohibiting a court from  
 3           committing certain youth at a restrictiveness level other  
 4           than minimum-risk non-residential; authorizing a court to  
 5           commit certain youth to a low or moderate risk residential  
 6           placement; providing an effective date.

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 8   Be It Enacted by the Legislature of the State of Florida:

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 10           Section 1.   Section 985.441, Florida Statutes, is amended  
 11           to read:

12           985.441   Commitment.—

13           (1)   The court that has jurisdiction of an adjudicated  
 14           delinquent child may, by an order stating the facts upon which a  
 15           determination of a sanction and rehabilitative program was made  
 16           at the disposition hearing:

17           (a)   Commit the child to a licensed child-caring agency  
 18           willing to receive the child; however, the court may not commit  
 19           the child to a jail or to a facility used primarily as a  
 20           detention center or facility or shelter.

21           (b)   Commit the child to the department at a  
 22           restrictiveness level defined in s. 985.03. Such commitment must  
 23           be for the purpose of exercising active control over the child,  
 24           including, but not limited to, custody, care, training, ~~urine~~  
 25           monitoring for substance abuse, electronic monitoring, and  
 26           treatment of the child and release of the child from residential  
 27           commitment into the community in a postcommitment nonresidential  
 28           conditional release program. If the child is not successful in

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29 the conditional release program, the department may use the  
30 transfer procedure under subsection (3).

31 (c) Commit the child to the department for placement in a  
32 program or facility for serious or habitual juvenile offenders  
33 in accordance with s. 985.47.

34 1. Following a delinquency adjudicatory hearing under s.  
35 985.35 and a delinquency disposition hearing under s. 985.433  
36 that results in a commitment determination, the court shall, on  
37 its own or upon request by the state or the department,  
38 determine whether the protection of the public requires that the  
39 child be placed in a program for serious or habitual juvenile  
40 offenders and whether the particular needs of the child would be  
41 best served by a program for serious or habitual juvenile  
42 offenders as provided in s. 985.47. The determination shall be  
43 made under ss. 985.47(1) and 985.433(7).

44 2. Any commitment of a child to a program or facility for  
45 serious or habitual juvenile offenders must be for an  
46 indeterminate period of time, but the time may not exceed the  
47 maximum term of imprisonment that an adult may serve for the  
48 same offense.

49 (d) Commit the child to the department for placement in a  
50 program or facility for juvenile sexual offenders in accordance  
51 with s. 985.48, subject to specific appropriation for such a  
52 program or facility.

53 1. The child may only be committed for such placement  
54 pursuant to determination that the child is a juvenile sexual  
55 offender under the criteria specified in s. 985.475.

56 2. Any commitment of a juvenile sexual offender to a

57 | program or facility for juvenile sexual offenders must be for an  
 58 | indeterminate period of time, but the time may not exceed the  
 59 | maximum term of imprisonment that an adult may serve for the  
 60 | same offense.

61 | (2) Notwithstanding the provisions of subsection (1), the  
 62 | court that has jurisdiction of an adjudicated delinquent child  
 63 | may not commit a child adjudicated with any misdemeanor or  
 64 | probation violation other than a new law violation constituting  
 65 | a felony, where the underlying offense is a misdemeanor, at a  
 66 | restrictiveness level other than minimum-risk non-residential.  
 67 | However, the court may commit such child to a low-risk or  
 68 | moderate-risk residential placement if the child:

69 | 1. Has previously been adjudicated for a felony offense;  
 70 | 2. Has been adjudicated for four or more misdemeanor  
 71 | offenses within a year of the offense date of the offense before  
 72 | the court for disposition; or

73 | 3. Is before the court for disposition for a violation of  
 74 | s. 828.12, s. 806.031, or s. 800.03.

75 | ~~(3)~~ (2) The nonconsent of the child to commitment or  
 76 | treatment in a substance abuse treatment program in no way  
 77 | precludes the court from ordering such commitment or treatment.

78 | ~~(4)~~ (3) The department may transfer a child, when necessary  
 79 | to appropriately administer the child's commitment, from one  
 80 | facility or program to another facility or program operated,  
 81 | contracted, subcontracted, or designated by the department,  
 82 | including a postcommitment nonresidential conditional release  
 83 | program, except that the department may not transfer any child  
 84 | adjudicated solely for a misdemeanor to a residential program

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85 except as provided in subsection (2). The department shall  
86 notify the court that committed the child to the department and  
87 any attorney of record for the child, in writing, of its intent  
88 to transfer the child from a commitment facility or program to  
89 another facility or program of a higher or lower restrictiveness  
90 level. The court that committed the child may agree to the  
91 transfer or may set a hearing to review the transfer. If the  
92 court does not respond within 10 days after receipt of the  
93 notice, the transfer of the child shall be deemed granted.

94 Section 2. This act shall take effect July 1, 2011.